

# Notice of Allowability

Application No.

09/843,638

Examiner

Kristen Mullen

Applicant(s)

DAVIS ET AL.

Art Unit

3762

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/6/04.
2. ☒ The allowed claim(s) is/are 1-9, 13-30 and 34-45.
3. ☒ The drawings filed on 09 May 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Kristen Mullen

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Keith Campbell on 12/6/04.

The application has been amended as follows:

The text of Claim 34 has been deleted and replaced with:

--34. (CURRENTLY AMENDED) A method for anchoring a therapy delivery element, comprising:  
inserting a therapy delivery element into a human body;  
providing a therapy grip element having a length defined by the boundaries of a first and second opening;  
separating a first portion of the therapy grip element from a second portion of the therapy grip element to form a discontinuous inner surface extending the length of the therapy grip element by actuating two extension elements to open the therapy grip element;  
placing the therapy element within the inner surface of the therapy grip element;  
positioning the therapy grip element at a grip location on the therapy delivery element;  
closing the therapy grip element on the therapy delivery element by actuating the two extension

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elements such that the inner surface of the grip element grippably engages the therapy delivery element;

securing the therapy grip element on the therapy delivery element when the therapy grip element is closed;

positioning a tissue fixation element at a tissue location;

fixing the tissue fixation element to tissue at the tissue location in an orientation along the axial length of the therapy delivery element; and,

connecting the therapy delivery element to a therapy delivery device.--

Claim 35, line 2: "adjustable anchor" has been deleted and replaced with --therapy grip element--

The text of Claim 42 has been deleted and replaced with:

--42. (CURRENTLY AMENDED) A method for operating an adjustable anchor for a therapy delivery element, comprising:

providing a therapy grip element having a length defined by the boundaries of a first and second opening;

separating a first portion of the therapy grip element from a second portion of the therapy grip element to form a discontinuous inner surface extending the length of the therapy grip element by actuating two extension elements to open the therapy grip element;

placing the therapy element within the inner surface of the therapy grip element;

positioning the therapy grip element at a grip location on the therapy delivery element;

closing the therapy grip element on the therapy delivery element by actuating the two extension

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elements such that the inner surface of the grip element grippably engages the therapy delivery element;

securing the therapy grip element on the therapy delivery element when the therapy grip element is closed;

positioning a tissue fixation element at a tissue location;

fixing the tissue fixation element to tissue at the tissue location in an orientation along the axial length of the therapy delivery element.--

Claim 43, spanning lines 1-2: "adjustable anchor" has been deleted and replaced with --therapy grip element--.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on 10:30 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kristen Muller*

kdm

*Kennedy Schaezle*  
KENNEDY SCHAEZLE  
PRIMARY EXAMINER  
12/8/04